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10/810,306	03/25/2004	Pierre L. Laurent	FFRT-P002	7992
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/810,306	Applicant(s) LAURENT ET AL.	
	Examiner Ed Baird	Art Unit 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☒ Claim(s) 1, 13, 16, 28, and 31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7 October 2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1- 38 are pending in this application. Claims 1-38 are rejected under 35 U.S.C. 112, 101, and 103.

Specification

1. Applicant cooperation is requested in correcting any error of which applicant may become aware in the specification.

Claim Objections

2. **Claims 1, 16 and 31** are objected to because of the following informalities: "at least two of a air mode". The claim should read "at least two of an air mode". Appropriate correction is required.
3. **Claims 13 and 28** are objected to because of the following informalities: "said derivative contract data is bundled **from** data" is unclear. For the purposes of examination, the term will be read: "said derivative contract data is bundled to data". Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2, 3, 13, 17, 18, 25, 28, 32 and 33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. **Claims 2, 17, and 32** recite the limitations: "**both** a qualitative assessment of a forecast associated with said each rating and a quantitative assessment of said forecast associated with said each rating". Examiner sites no differences between "a qualitative assessment of a forecast associated with said each rating" and "a quantitative assessment of said forecast associated with said each rating" and consequently, Examiner can not make distinguish between the two **qualitative assessments**.

For the purposes of examination, the term "**both** a qualitative assessment of a forecast associated with said each rating and a quantitative assessment of said forecast associated with said each rating" will be interpreted to be as "a qualitative assessment of a forecast associated with said each rating". Appropriate correction is required.

7. **Claims 3, 18, and 33** recite the limitations: "**one of** a qualitative assessment of a forecast associated with said each rating and a quantitative assessment of said forecast associated with said each rating". Examiner sites no differences between "a qualitative assessment of a forecast associated with said each rating" and "a quantitative assessment of said forecast associated with said each rating" and consequently, Examiner can not make distinguish between the two **qualitative assessments**.

For the purposes of examination, the term "**one of** a qualitative assessment of a forecast associated with said each rating and a quantitative assessment of said forecast associated with said each rating" will be interpreted to be as "a qualitative assessment of a forecast associated with said each rating". Appropriate correction is required.

8. Regarding **claim 13 and 28**, the limitation: "said each displayed data item being associated with a single mode, at least two of displayed data items in said derivative contract data are associated with two different modes" is unclear. For the purposes of examination, the term will be considered to be not further limiting. Appropriate correction is required.
9. Regarding **claim 25**, the limitation: "displaying in a third data section matched derivative contract order data" is unclear. For the purposes of examination, the term "displaying in a third data section matched derivative contract order data" will be interpreted to be "displaying in a third data section with matched derivative contract order data". Appropriate correction is required.

Claim Rejections - 35 USC § 101

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

11. Claims 1-38 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
12. The claimed invention described in independent **claims 1, 16 and 31**, is inoperative and therefore lacks utility. Applicant claims a browser window, a method, and a computer readable code, respectively, which display data.

As per MPEP 2106.01 [R-5] **Computer-Related Nonstatutory Subject Matter:**

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a

computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works, and a compilation or mere arrangement of data.

Both types of "descriptive material" are nonstatutory when claimed as descriptive material per se, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some **computer-readable medium**, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.

As per MPEP 2106.02 [R-5] **Mathematical Algorithms:**

Claims to processes that do nothing more than solve mathematical problems or manipulate abstract ideas or concepts are complex to analyze and are addressed herein. If the "acts" of a claimed process manipulate only numbers, abstract concepts or ideas, or signals representing any of the foregoing, the acts are not being applied to appropriate subject matter. *Gottschalk v. Benson*, 409 U.S. 63, 71 - 72, 175 USPQ 673, 676 (1972). Thus, a process consisting solely of mathematical operations, i.e., converting one set of numbers into another set of numbers, does not manipulate appropriate subject matter and thus cannot constitute a statutory process.

13. **Claims 2-16, 17-30, and 32-38**, are also rejected in that they are also dependant upon claims 1, 16, and 31, and also do not add utility as discussed in the rejection of claims 1, 16, and 31.

14. **Claims 2-6, 17-21, and 32-36** are directed to non-statutory subject matter in that the claimed invention would impermissibly cover every substantial practical application of, and

thereby preempt all use of, an abstract idea, natural phenomenon, or law of nature. In these cases, **rating of data and the qualitative assessment** thereof covers every possible way of determining these values.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 1, 7-16, 22-31, 37, and 38 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Nafeh et al** (USPub. No. 2002/0069155) in view of **Haigh** ("Hedging foreign currency, freight, and commodity futures portfolios--A note", The Journal of Futures Markets, Hoboken: Dec 2002. Vol. 22, Iss. 12; pg. 1205) in further view of **New Zealand Manufacturer** ("Freight futures rounded up", New Zealand Manufacturer. Wellington: Mar 1996. pg. 14.).

17. Regarding claim 1, 16, and 31: **Nafeh** teaches:

- a first **data section** configured to display derivative contract data and
- a second **data section displaying forecast data** pertaining to demand forecasts between said first geographic location and said second geographic location by shippers.;

Nafeh discloses an invention which includes methods and apparatus, to innovate trading of futures securities. This invention includes futures contracts tailored to specific clienteles; the notion of tickets and coupons as tradable futures contracts; the notion of redeemable bundles; and notion of realization of the futures market on the Internet; the apparatus of an Internet-

based trading interface and engine; the notion of cookie-cutter futures electronic Internet-based futures markets for each security; the feature of maximal reliance on the Internet; and the business concept of "profitability without the need for high trading volume" [Abstract].

Nafeh discloses a computer-network based futures trading system, or platform, which is electronically accessible by prospective traders, for enabling transactions related to futures contracts and futures contract bundles [paragraph 0035]. **Nafeh** further discloses his computer-network based system as having an interactive interface that may be configured to enable anyone who accesses the platform to apply for a new account and **to view data and news related to activity within markets** within the platform [0036]. Examiner interprets viewing data and news as Applicant's **displaying derivative contract data and displaying forecast data**. Examiner interprets futures trading system to include Applicant's **derivative contract data** in that futures are a type of derivative.

Nafeh does not specially disclose trading futures options in relation to transportation. However, **Haigh** discloses Baltic International Freight Futures Exchange (BIFFEX) which trades a derivative contracts and freight futures used for hedging uncertainty in international trade [Abstract and 1st paragraph under Introduction]. **Haigh** extends previous research by providing a complete framework for a trader exposed to foreign exchange, commodity, and freight price risk while allowing for time-varying dependencies among the prices [page 2, 2nd paragraph].

Examiner notes that while **Haigh** does not explicitly describe **carriers between and forecast data pertaining to** a first and second geographic location, these are inherently parameters in freight futures.

Neither **Nafeh** nor **Haigh** specially disclose derivative contract involving more than one mode of transport. However, **New Zealand Manufacturer** discloses the transition of New Zealand's transport infrastructure in regards to deregulation of ports, airport authorities, and rail

services. [Abstract]. **New Zealand Manufacturer** discusses “Hubbing” which is expected to intensify where ships call at selected ports fed by road, rail and coastal shipping services [page 2, 2nd paragraph]. Examiner notes that road, rail, and shipping services constitute Applicant’s several modes of transport.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Nafeh’s** invention to include derivative contracts and freight futures as taught by **Haigh** and **New Zealand Manufacturer** because it allows individuals involved in the freight industry to efficiently monitor variable costs related to moving goods between several locations.

18. Regarding **claims 7, 8, 22, 23, 37, and 38**: **Nafeh** and **Haigh** teach all the items of claims 1, 16, and 31, the claims upon which they depend, respectively. The limitations:

- derivative contract data represents futures contract data (claim 7, 22, and 37), and
- derivative contract data represents option contract data (claim 8, 23, and 38)

are not further limiting because the terms **derivatives** include **futures** and **options**, i.e. futures and options are both derivatives. Since this statement does not further limit the claim, this claim is rejected for the same reasons as claims 1, 16, and 31, the claims upon which they depend, respectively.

19. Regarding **claims 9- 11, and 24-26**: **Nafeh** teaches the limitations:

- a third data section configured to display unfulfilled derivative contract order data
- a third data section configured to display matched derivative contract order data.
- a fourth data section configured to display successfully matched derivative contract order data

Nafeh discloses a way of viewing orders and data applicable to them. A user is able to view the size and price of the same number of **recently executed trades** and the same number of outstanding bids and offers. He also is able to view records of all recently executed

trades (within the last hour) as well as a listing of the size and price of the best outstanding bid and offer [paragraph 0533 - 0534]. Examiner interprets this information regarding trades is equivalent to Applicant's derivative contract order data as specified in the claims' limitations.

20. Regarding **claims 12, 13, 27 and 28**: the limitations:

- a displayed data item in said derivative contract data represents a plurality of capacity offers from at least a subset of said shippers (claims 12 and 27)
- each displayed data item in said derivative contract data is bundled from data associated with a plurality of capacity offers from at least a subset of said shipper (claims 13 and 28)

are not specifically disclosed in **Nafeh, Haigh** or **New Zealand Manufacturer**.

However, Examiner notes that while derivative contract data involving a subset of shippers are not explicitly describe, these are inherently parameters in freight futures exchanges such as BIFFEX as discussed in **Haigh** as discussed above. Additionally, Examiner notes such applications to a subset of shippers are statements of intended use as discussed above.

Therefore, these claims are rejected for the same reasons as claims 1 and 16, the claims upon which they depend, respectively.

21. Regarding **claims 14 and 29**: **Nafeh** discloses the limitations:

- offers are bundled into a derivate contract represented by said displayed data item in accordance to a geographic bundling criterion

Nafeh notes geographic diversification [paragraph 0006] and applies his invention to traders that are geographically dispersed [paragraph 0021]. Examiner interprets this application as Applicant's geographic bundling criterion.

22. Regarding **claims 15 and 30**: **Nafeh** discloses the limitations:

- offers are bundled into a derivate contract represented by said displayed data item in accordance to a time frame bundling criterion

Nafeh discloses a computer-network based system which enables transactions relating to bundles of futures contracts which correspond to possible future outcomes of a phenomenon at a **time of maturity** of the contract [paragraph 0037]. Examiner interprets **time of maturity** as Applicant's time frame bundling criterion.

23. Claims 2-6, 17-21, and 32-36 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Nafeh et al** (USPub. No. 2002/0069155) in view of **Haigh** ("Hedging foreign currency, freight, and commodity futures portfolios--A note", The Journal of Futures Markets, Hoboken: Dec 2002. Vol. 22, Iss. 12; pg. 1205) in further view of **New Zealand Manufacturer** ("Freight futures rounded up", New Zealand Manufacturer. Wellington: Mar 1996. pg. 14.) in further view of **Scheer** (USPub. No. US 2002/0138358).

24. Regarding **claim 2, 3, 17, 18, 32, and 33**: neither **Nafeh**, **Haigh** nor **New Zealand Manufacturer** teach:

- said second data section further includes rating data associated with said forecast data

However, **Scheer** discloses a method for selecting a fulfillment plan to move an item along a supply chain [Abstract]. He further discloses **supply chain management system** which includes a database of forecast data, the forecast data including consumption rates based on historical data [paragraph 0024 and 0025]. Examiner interprets **consumption rates** as indicative of Applicant's rating data associated with said forecast data.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Nafeh's** invention to include **supply chain management system** as taught by

Scheer because it allows individuals involved in the freight industry to efficiently operate an entire supply chain on a "just in time" basis without requiring those companies to keep excessive levels of product in storage [paragraph 0023].

25. Regarding **claim 4, 5, 19, 20, 34, and 35: Nafeh, Haigh, New Zealand Manufacturer, and Scheer** teach all the limitations of claims 3, 18, and 33, the claims upon which they depend respectively. In addition, **Nafeh** teaches:

- qualitative assessment represents an aggregated value that takes into account qualitative assessments from different shippers.
- qualitative assessment is associated with a shipper that furnishes said forecast associated with said each rating, and includes an identity of said shipper that furnishes said forecast associated with said each rating.

Nafeh discloses a description of the types of contracts and how them in hedging [starting at paragraph 0052]. Here he points out an **aggregate value of the contract bundle** [paragraph 0068]. Examiner interprets **aggregate value of the contract bundle** as indicative of Applicant's aggregated value attained from the qualitative assessment from different shippers. Examiner notes that assessments from different shippers is a statement of intended use as discussed above. Examiner notes that a qualitative assessment representing an aggregate of values (from different shippers) inherently includes the qualitative assessment of one value (i.e. associated with one shipper).

26. Regarding **claims 6, 21, and 36: Scheer** teaches:

- said quality assessment includes at least four of a set of criteria that includes demand, manufacturing readiness, manufacturing location, capacity, product, lane, and lane stability.

Scheer discloses as discussed above [paragraph 0024 - 0025]. He further discloses a supply chain management system and method which would allow companies to operate an entire supply chain on a "just in time" basis without requiring those companies to keep an excessive level of product safety stock on hand [paragraph 0023]. Examiner interprets **allowing companies to operate an entire supply chain** as representative of Applicant's **quality assessment**. Examiner interprets **operating a supply chain on a "just in time" basis** as representative of Applicant's manufacturing readiness.

Scheer's supply chain management system includes a database of forecast data which may also include deterministic **demand** data [paragraph 0024 - 0026]

Examiner interprets **consumption rates** [paragraph 0025] as representing Applicant's capacity. **Scheer** also considers excess inventory in regards to stocking levels for a particular **location**.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Nafeh's** invention to include **supply chain management system and method** as taught by **Scheer** because the invention would allow a user to forecast the cost of futures securities based on data that is pertinent to the supply and demand in the freight and transport industries.

Cited Prior Art

27. The prior art of record and not relied upon is considered pertinent to Applicant's disclosure.

- **Wilson**: "Air freight: Poised for expansion", Transportation & Distribution, Cleveland, Aug 1997. Vol. 38, Iss. 8; pg. 43, 5 pgs.). This article deals with forecast in worldwide air freight.

- **Foster:** "Air freight weathers the storm", Logistics Management and Distribution Report, Radnor, May 1999. Vol. 38, Iss. 5; pg. 55). This article discusses how shippers may want to trade off higher transportation costs for less risk.

- **Hunt et al** (US Patent No. 5,724,524)
- **Bains et al** (US Patent No. 6,625,584).
- **Lancaster et al** (USPub. No. 2002/0133456).
- **Lerner** (USPub. No. 2002/0120555).
- **Schuricht et al** (US Patent No. 5,040,132).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ed Baird whose telephone number is (571) 270-3330. The examiner can normally be reached on Monday - Thursday 7:30 am - 5:00 pm Eastern Time.

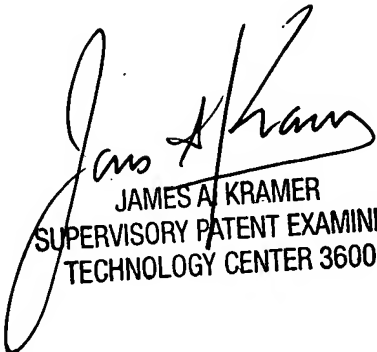
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from

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a USPTO Customer Service Representative or access to the automated information system,
call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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 1.2.08
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